

APPROVED

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Thursday, May 29, 1986 Rockville, Md.

The County Council for Montgomery County, Maryland, convened in the Council Hearing Room, Stella B. Werner Council Office Building, Rockville, Maryland, at 2:10 P.M. on Thursday, May 29, 1986.

PRESENT

William E. Hanna, Jr., President	Neal Potter, Vice President
Scott Fosler, President Pro Tem	Michael L. Gudis
Rose Crenca	David L. Scull
Esther P. Gelman	

The President in the Chair.

SUBJECT: Bill No. 19-86. County Employee Collective Bargaining

ISSUES DISCUSSED: President Hanna's offer to grant five minutes for summarizing positions on issues to be discussed today to Mr. Willcox, special attorney for the Council, representatives of MCGEO (Local 400), and Mr. Sean Rogers, representing the County Executive, with Mr. Rogers noting that he has spoken with representatives from MCGEO and that the positions of the County Executive and MCGEO on the major issues are substantially similar; explanation provided by Councilmember Gelman regarding the preparation of the subject bill and the attempt made by the Personnel Committee to include the alternatives raised for every major provision; the distinction between trade and technical work, as defined on pages 13 and 14 of the subject bill.

ACTION: Agreed to the provision of two bargaining units (service labor and trades, and office, professional and technical) as set forth in the subject bill.

SUBJECT: Certificate of Appreciation

President Hanna presented a certificate of appreciation to Myriam Bailey, Senior Attorney, Office of Legislative Counsel, in recognition of the legal assistance provided to the Council for the past several years.

SUBJECT: Bill No. 19-86, County Employee Collective Bargaining Legislation  
(Cont'd)

ISSUES DISCUSSED: Whether the State/County merit employees in the Department of Social Services and all persons in Grade 27 or above should be excluded from the bargaining units; the feasibility of permitting the supplementary salary provided by the County for State/County merit employees to be a bargaining item; comments of Mr. Thompson, representing MCGEO, suggesting that Section 33-63A of the bill could be amended to retain the "meet and confer" benefit for the State/County employees and those individuals above Grade 27 who have been under the "meet and confer" law, which benefit is proposed to be terminated after the collective bargaining units have been established; comments of Mr. Rogers concerning the County Executive's opposition to including County/State merit employees and individuals over Grade 27 under the collective bargaining provisions of the subject bill because the conditions of employment for the State/County positions are substantially determined by the State and because the positions above Grade 27 are held by top level professional staff with special relationships and special circumstances to the County Government; comments of Mr. Willcox that, when collective bargaining is established, the "meet and confer" benefit should be discontinued; Mr. Thompson's comments that, if the employees of these positions were allowed to continue to have the "meet and confer" benefit as set forth in existing law, the Chief Administrative Officer would determine how to place them in employee units.

ACTION: Agreed to amend the subject bill to retain the "meet and confer" provision for County/State employees.

Agreed to exclude employees at Grade 27 and above from the "meet and confer" benefit.

It was noted that, should some reason become apparent in the future for the "meet and confer" benefit for employees at Grade 27 and above, the law could be amended to provide this benefit.

ISSUES DISCUSSED: The provision in the bill for an election in which the employees express their desires with respect to collective bargaining as well as an alternative to an election in which the Labor Relations Administrator accepts cards or petitions signed by a majority of the employees designating the incumbent "meet and confer" union as the bargaining representative unless another union or ten percent of the employees in the unit have petitioned for an election.

ACTION: Amended the bill, page 18, line 23, to substitute 20 for [10] percent of unit employees

by motion of Councilmember Fosler, without objection.

ISSUES DISCUSSED: Whether there is a need to change the "10 percent" on line 26, page 16, (showing support for intervention by another union in certification or decertification election) to "20 percent" representation of

the employees within the unit because of the percentage change made on page 18, with Councilmembers noting the distinctions between the two provisions which would not require a change to be made to page 16; amendments proposed by the County Executive in his memorandum of May 29, 1986, page 2, IV, and V.

ACTION: Amended the bill, page 15, line 13, to delete [not]; and on page 16, line 27, added the following phrase in the same manner as described in section (a)(1) above

Mr. Thompson indicated that MCGEO supports the amendment to page 15, providing that the Labor Relations Administrator is the individual who makes a determination concerning the validity of the names submitted on the petition, with Mr. Willcox assuring him that that is the intent of the bill.

ISSUES DISCUSSED: The provision in the bill allowing a majority of those voting to choose the collective bargaining representative; Councilmember Potter's comments regarding his preference for a minimum percentage of employees, approximately 25 percent, to be the determining body rather than a majority of those voting; the amendment which provides that decisions on collective bargaining to be made by a majority of eligible employees; Councilmember Potter's motion, which did not come to a vote, to amend the bill, page 17, line 20, to add after "agent" provided that a majority of the eligible employees voted in the election; the application of the majority vote provisions to both the certification and decertification of an employee organization as the exclusive agent; comments of Mr. Potter with respect to his decision to support the language in the bill rather than the amendment because the provision requiring a majority of employees to vote applies to both certification and decertification; Councilmember Crenca's question regarding the reasons for excluding County Council staff from collective bargaining, with Councilmember Gelman noting that she was told that the Council's role in the collective bargaining process is the basis for excluding employees of the Legislative Branch; the provision in the bill that makes "agency shop" a subject of collective bargaining; Assistant County Attorney Sherman's comments regarding the opinion of the Supreme Court, in the Chicago Teachers' Union v. Hudson case, that an agency shop is permissible and employees can be required to join but the dues they pay must be for collective bargaining purposes only; Councilmember Hanna's concern with respect to requiring an employee to join a union to keep his job; the amendments proposed for page 12, lines 15 through 20, that would remove "agency shop" as a bargaining subject; the requirement under an agency shop that an employee, who for any reason does not wish to join the union, pay a service fee for benefits obtained through collective bargaining or, in lieu of the service fee if the objection is a religious objection, to pay a service fee to a charitable organization which is approved by the certified representative; how a disagreement between the union and the employee about whether a charitable organization chosen by the employee is appropriate might be resolved, with Mr. Rogers noting that this would be part of the dispute resolution process; Councilmember Potter's concern regarding the potential for abuse that exists in providing that the union has to approve the charitable organization to

which a service charge is made; Mr. Willcox's proposed amendment to the bill to provide for dispute resolutions in such instances.

ACTION: Amended the bill, page 6, line 13, to add after the word "representative," with provision for dispute resolution if there is not agreement.

ISSUES DISCUSSED: Councilmember Crenca's question regarding whether employees excluded from collective bargaining would be required to pay a service charge for benefits received as a result of collective bargaining, with Mr. Willcox, Mr. Rogers, and Mr. Thompson responding in the negative; the collective bargaining provision for defined contribution pension plans for new employees and for current employees who may decide to transfer from their existing defined benefit plan to a defined contribution plan; the advantages and disadvantages of including pension plans as a subject of collective bargaining; the position of the County Executive in support of the inclusion of all pension plans; the amendments proposed that exclude pension plans from collective bargaining; Mr. Willcox's comments regarding the problem of including pension plans as a subject of collective bargaining because the pension plans are very complicated and, during the collective bargaining process, decisions may be made without time to consider the consequences; Councilmember Potter's comments concerning the reduced liability the County would have under a defined contribution plan as a reason that it may have been included as a subject for collective bargaining; Councilmember Potter's motion to include all pension plans as subjects of collective bargaining; Councilmember Gelman's amendment to Mr. Potter's motion, accepted by Mr. Potter, that the defined benefit plan will be a subject of collective bargaining if a defined contribution plan is not adopted within one year of the effective date of this law; Councilmember Potter's amendment to his motion to provide that a defined benefit plan would not be subject to bargaining unless a defined contribution plan failed to be adopted within one year of the effective date of the law (restated by Mr. Potter, using the following language suggested by Mr. Thompson: For one year from the effective date of the law, pensions will not be open to collective bargaining.).

ACTION: Adopted Mr. Potter's motion as amended and restated to amend the bill to add the following: For one year from the effective date of the law, pensions will not be open to collective bargaining

by motion of Councilmember Potter, Councilmember Crenca abstaining.

The meeting adjourned at 5:03 P.M.

This is an accurate account of the meeting:



Kathleen A. Freedman, Secretary  
County Council